

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

LAURACK D. BRAY,
Plaintiff,

vs.

DEPARTMENT OF JUSTICE, et al.,
Defendants.

Case No.: CV 12-05704-CJC(RZ)

ORDER DISMISSING PLAINTIFF'S
CASE FOR FAILURE TO STATE A
COGNIZABLE CLAIM

I. INTRODUCTION AND BACKGROUND¹

On August 14, 2012, the Court denied Plaintiff Laurack D. Bray's *ex parte* application for the issuance of a temporary restraining order and for an order to show cause why a preliminary injunction should not be granted. (Dkt. No. 16.) In doing so,

¹ A more complete recitation of the factual background can be found in the Court's August 14, 2012 Order. (See Dkt. No. 16.)

1 the Court also ordered Mr. Bray to show cause why his Complaint should not be
2 dismissed for failure to state a cognizable claim. (*Id.*) Rather than responding directly to
3 the Court's Order, Mr. Bray filed a response asserting that this Court lacked jurisdiction
4 to rule on his *ex parte* application due to his filing of a writ of mandamus with the Ninth
5 Circuit. (Dkt. No. 17.) Such a procedural maneuver is of no consequence. For the
6 following reasons, Mr. Bray's Complaint is DISMISSED WITH PREJUDICE.

7 8 **II. ANALYSIS**

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10 Federal Rule of Civil Procedure 8(a)(2) requires a complaint to contain "a short
11 and plain statement of the claim showing that the pleader is entitled to relief." To comply
12 with Rule 8, a plaintiff must plead "the elements of his or her claim, identifying the
13 transactions or occurrence giving rise to the claim and the elements of the prima facie
14 case." *Bautista v. Los Angeles County*, 216 F.3d 837, 840 (9th Cir. 2000). Rule 8
15 requires that the complaint "say enough to give the defendant fair notice of what the
16 plaintiff's claim[s] [are] and the grounds upon which [they] rest[]." *Tellabs, Inc. v. Makor*
17 *Issues & Rights, Ltd.*, 127 S.Ct. 2499, 2507 (2007) (internal quotations omitted).
18 However, complaints containing allegations that merely "incorporate each preceding
19 paragraph, regardless of relevancy, are not permitted." *Destfino v. Kennedy*, No. CV 08-
20 1269, 2009 WL 63566, *4 (E.D. Cal. Jan. 8, 2009). This practice, known as "shotgun
21 pleading," violates Rule 8's requirement of a short and plain statement. *Id*; *see also*
22 *Strategic Income Fund v. Spear, Leeds, & Kellogg Corp.*, 305 F.3d 1293, 1295 (11th Cir.
23 2002).

24
25 Mr. Bray's Complaint fails to meet the basic pleading requirements of Rule 8(a) to
26 provide a short and plain statement of the claim showing that the pleader is entitled to
27 relief. Mr. Bray's thirty-four page Complaint, with eight claims, against twenty-one
28 different defendants, is replete with allegations of racial discrimination, and other alleged

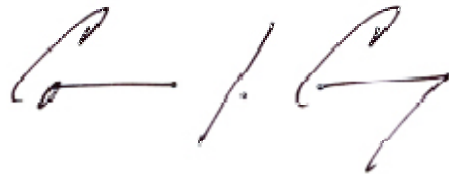
1 constitutional violations. But rather than being a short and plain statement of Mr. Bray's
2 alleged injury, the Complaint is a "shotgun pleading" that primarily contains legal
3 conclusions. With so many allegations, leveled against so many defendants, Mr. Bray's
4 Complaint makes it impossible to discern a cognizable claim.

5
6 When given the opportunity to correct the conclusory, confusing, and redundant
7 allegations in his Complaint, Mr. Bray instead chose to question this Court's jurisdiction
8 to rule on his *ex parte* application and filed a writ of mandamus with the Ninth Circuit.
9 Mr. Bray, however, never addressed the deficiencies in his Complaint despite the Court's
10 order to do so.

11
12 **III. CONCLUSION**

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14 For the foregoing reasons, Mr. Bray's Complaint is DISMISSED WITH
15 PREJUDICE.

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17 DATED: September 26, 2012



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20 CORMAC J. CARNEY
21 UNITED STATES DISTRICT JUDGE
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